

**REMARKS**

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0591, under Order No. 17128/003001 from which the undersigned is authorized to draw. Please reconsider the application in view of the above amendments and the following remarks. The response is submitted within the time period for early response and respectfully request entry of the amendment and an indication of acceptance of the amendment as placing the application in a condition for allowance or in a better condition for appeal prior to the time period for appeal. Applicants thank the Examiner for carefully considering this application.

Applicants respectfully submit the foregoing amendment and the following remarks in response to the final rejection to clarify the invention and to place the application in a condition for allowance or in a better condition for appeal. In particular claim 1 has been amended to a format that includes the combination of elements in the body of the claim rather than including parts in the preamble as is more common in European practice. Also the numbering of claim elements throughout the claims has been eliminated. As a result of eliminating the reference numbers certain clarifying amendments have been made to confirm proper antecedent basis throughout the claims. Claims 1 and 12 have also been amended to clarify that the claimed shaft element (20), is in reference to the rotatable shaft extending parallel to the pump hose. This construction is understood and supported throughout the application, especially such that the amendment eliminating the element number 20 and including instead the clear reference to the shaft claimed, does not add new matter and does not require a new search.

Based upon the amendments it is deemed that the cited references taken alone or in any suggested combination do not teach, disclose or suggest an obvious combination of all of the elements of either independent claim 1 or independent claim 12.

Applicants regret that the remark in the prior amendment regarding none of the references teaching all of the claimed elements was considered as an argument specifically against making an obviousness rejection. The statement was intended to merely establish as a base line that there no anticipation reference was found by the examiner and to emphasize that the combination of all the claimed elements was not deemed by applicants to be suggested by any of the cited references. Applicants, continue to respectfully disagree with the assertion that bearing interposed between the connecting rods and the eccentric shaft of Hemingway would be “an inherent feature. It is noted that Hemingway specifically provides a biased or spring loaded follower arrangement to keep the finger driving rods sliding against the eccentric surfaces. In such an arrangement an interposed bearing as claimed would not be inherent. Moreover, Borsanyi, at least teaches, a bearing for directly engaging the pump hose. Exactly how a pumping finger would engage with or connect to a bearing in the European patent application is not clear. In any event, the claims are considered distinct for other reasons as well.

Hemingway teaches a shaft driving pumping fingers; but, as the examiner has stated Hemmingway does not teach a sealing diaphragm in the combination claimed. Neither Von Der Heyde et al. nor Robinson teaches a peristaltic pump having a rotatable shaft extending parallel to a pump hose. There is no suggestion in any of these cited references of how the specially constructed sealing diaphragms of the Von Der Heyde et al. or Robinson patents could be installed in a peristaltic pump between a pump hose and a rotatable shaft parallel to the pump hose as claimed. It is respectfully submitted that any such a combination would require

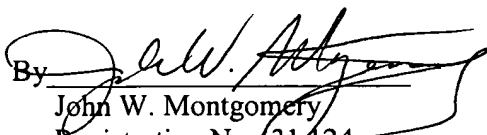
significant modifications not shown in any of the cited references. Thus, without the teaching of the present application, making of a successful combination of the specially constructed diaphragms of the cited reference with the hose pump of Hemingway would not be obvious.

Moreover, it is noted that the specially constructed diaphragms of Von Der Heyde et al. and Robinson are each provided for a single rod, and there is no suggestion of combining such diaphragms with a plurality of pumping fingers passing through the sealing diaphragm as in the combination claimed. For at least these reasons the independent claims 1 and 12 and all the claims 2-11 and 13-20, depending from those independent claims, as amended are deemed to be patentable.

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 17128/003001).

Dated: December 11, 2006

Respectfully submitted,

By   
John W. Montgomery  
Registration No. 31,124  
OSHA · LIANG LLP  
1221 McKinney St., Suite 2800  
Houston, Texas 77010  
(713) 228-8600  
(713) 228-8778 (Fax)  
Attorney for Applicant

Attachments